

REMARKS/ARGUMENTS

Claims 1-41 are pending and at issue in this present application. Of these, Claims 1 and 23 are independent and have been amended.

Claims 1, 2, 4-9, 11-13, 16-20, 23, 24, 26-30, 33-37 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Takagi (USPN 6,718,187). Claims 3, 15, 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi (USPN 6,718,187) in view of Stewart (USPN 6,546,257). Claims 10, 14 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi (USPN 6,718,187) in view of Sheth (USPN 6,405,106).

Applicants, however, strongly disagree and respectfully traverse the rejection. However, in an effort to move toward allowance, Applicants have amended the claims to more clearly specify Applicants' invention.

MPEP § 2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F. 2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the ... claim."

Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim

Each of the pending claims has been amended to require "receiving a plurality of context data from a plurality of context data sources to calculate a driver cognitive load based upon the plurality of context data" and "setting the service state ... in accordance with the calculated cognitive driver load" " Takagi does not either expressly or inherently disclose such a limitation as required by MPEP § 2131 and thus cannot anticipate the pending claims.

Specifically, Takagi teaches a hands-free telephone apparatus for vehicle and teaches that when the “driving burden” is small enough that a driver is given the opportunity to respond to an incoming call. Takagi, abstract. Takagi mentions “the burden of driving,” but discusses the concept of “the burden of driving” in the context of how long the driver takes to notice a display that shows that an incoming call has been received. If the driver does not notice the display within a prescribed amount of time, then the driver is assumed to be “burdened” and the driver is not able to answer the call. Takagi, col. 7 lines 30-38. Further, Takagi also mentions “the burden of driving” within the context of the speed of the vehicle. As the speed of the vehicle increases, the display that shows that an incoming call is receive is reduced until the driver is free enough from “the burden of driving” to receive an incoming call. Takagi, col. 8, lines 50-62. In no case, is there a discussion of how the burden of driving is determined or whether there are calculations performed to determine the burden.

Therefore, such a teaching to “the burden of driving” does not preclude “receiving a plurality of context data from a plurality of context data sources to calculate a driver cognitive load based upon the plurality of context data” and “setting the service state ... in accordance with the calculated cognitive driver load” as required by Applicants’ claims. As mentioned in Applicants’ specification, “driver cognitive load” is calculated, e.g. by taking a weighted sum of each individual task. Applicants’ specification, page 12, first paragraph. In interpreting pending claim terms, the Examiner is reminded that MPEP § 2111 requires that pending claims be given their broadest reasonable interpretation *consistent* with the specification. The term “driver cognitive load” as used in the claims is defined in the specification at various places including at page 12. Thus, MPEP 2111 requires that the term “driver cognitive load” be interpreted as defined at various places in the Applicants’ Specification including page 12 cited above. For Takagi’s disclosure of “the burden of driving” to correspond to the “driver cognitive load” of the claimed invention, Takagi must perform calculations to arrive at a determination of whether the driver should receive a call and such a teaching is missing from the Takagi reference.

Further, Applicants’ claimed invention requires that the claimed device receive a *plurality* of context data (e.g. from a set of sensors) in order to determine a device

operating situation defined by a context parameter. As previously mentioned, such a limitation is missing from Takagi. See Applicants' Amendment dated 21 November 2005. For example, the context data may show that the device is not moving, that the device temperature is not human body temperature, *and* the device ambient noise relates to a group conversation. This *plurality* of context data may indicate a device operating situation where a device operator is conducting a meeting. Based on the device context, or device operating situation, the claimed device will select a particular service state in which to operate, i.e., it will operate according to a set of predefined operating rules, or device operating parameters. In the context described above, the claimed device will select a service state appropriate for a device operator conducting a meeting. The service state may be defined by a set of rules, or device operating parameters, such as "send all incoming calls to voice mail unless the call is from my boss, in which case initiate an audible alert." Thus, the claimed device receives a *plurality* of context data, determines the device operating situation based on a context parameter, and then operates the device according to a set of device operating parameters define a service state.

Because Takagi does not teach or suggest the step of "receiving a plurality of context data from a plurality of context data sources to calculate a driver cognitive load based upon the plurality of context data" and "setting the service state ... in accordance with the calculated cognitive driver load ..." and because Takagi does not teach or suggest "receiving a plurality of context data from a plurality of context data sources," the rejection is unsupported by the art and should be withdrawn. Further, since Takagi does not teach or suggest the claimed invention, Takagi in combination with Stewart and/or Sheth also does not teach or suggest the claimed invention.

As such, Applicants respectfully request reconsideration and allowance of rejected Claims 1-41.

Respectfully submitted,

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